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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Proposed Rules for Implementing  
the Cable Television Consumer  
Protection and Competition Act  
of 1992

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MM Docket No. 92-259

To: The Commission - Mail Stop 1170

**REPLY COMMENTS OF THE NATIONAL CAPTIONING INSTITUTE, INC.**

1. The National Captioning Institute, Inc. ("NCI") hereby submits its reply comments in response to comments that were filed on the Commission's proposed policies and rules governing implementation of the Cable Television Consumer Protection and Competition Act of 1992 ("Cable Act"), as proposed in the Commission's Notice of Proposed Rulemaking ("Notice") in MM Docket No. 92-259, FCC 92-499, released November 19, 1992. NCI again urges the Commission to adopt rules that faithfully reflect the statutory provisions which require cable systems to carry all of a broadcast station's line 21 closed captions along with the associated primary video signal and accompanying audio.

2. NCI's January 4, 1993 initial comments in this proceeding asserted that the public interest requires the Commission to implement the Cable Act's line 21 closed caption carriage provisions in a manner to ensure that deaf and hard of hearing cable subscribers continue to have access to all line 21 closed captions received by cable operators. Accordingly, NCI

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closed captions received by cable operators. Accordingly, NCI suggested that the Commission implement the Cable Act's line 21 closed caption provisions by: (1) leaving the present cable rules governing line 21 closed caption carriage by cable operators to subscribers untouched and (2) treating the Cable Act's line 21 closed caption carriage provision as a portion of "must carry" rules that the Commission will develop.

3. After reviewing the comments that were filed, NCI asks the Commission to adopt "must carry" rules that reflect the Cable Act's distinct treatment of line 21-delivered closed captions\* from other program-related information delivered via the vertical blanking interval (VBI). The Commission should also be aware that NCI has no objection to cable systems' tear down and reconstruction of line 21 closed captions if these captions are reconstructed, completely intact, for viewing in subscribers' home through decoding circuitry that meets FCC requirements.

**The Cable Act Requires a Cable System to Carry, Without Exception, a Broadcaster's Line 21 Closed Caption Transmissions. The Reference to "Technically Feasible" Applies Only to Other VBI-Delivered Program-Related Information.**

4. The Cable Act's "must carry" provisions create separate mandatory carriage and conditionally mandatory carriage

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\* In light of the Commission's Line 21, Field 2 NPRM proceedings in MM Docket No. 92-305, released December 31, 1992, line 21 is cited in these reply comments as meaning line 21, fields 1 and 2.

requirements. Both Sections 614(b)(3)(A) and 615(g)(1) of the Cable Act read, in pertinent part:

A cable operator shall carry, in its entirety, ... the primary video, accompanying audio, and line 21 closed captions transmission of each of the local broadcasters and, to the extent technically feasible, program-related material contained in the vertical blanking interval or on the subcarriers [emphasis added].

5. The above-cited language clearly states that (1) a cable system must carry, without exception, a local broadcaster's primary video, its accompanying audio, and the line 21 transmission and, (2) if technically feasible, other program-related material contained in the vertical blanking interval or other subcarriers.

**The Commission "Must Carry" Rules Should Reflect the Cable Act's Treatment of Line 21's Mandatory Carriage.**

6. The Commission should carry out the Cable Act's Line 21 carriage requirement by adopting two sets of "must carry" rules. The first set would require mandatory carriage of a local broadcaster's primary video, accompanying audio, and line 21 closed caption transmissions; the other set would require the carriage of program-related information carried on vertical blanking intervals, other than line 21 captions, or other subcarriers, to the extent such carriage is technically feasible and to whatever extent the Commission finds to be in the public interest.

7. The rule structure suggested in paragraph six would not only be consistent with the Cable Act, but also with the underlying public interest as discussed in NCI's January 4, 1992 initial comments.

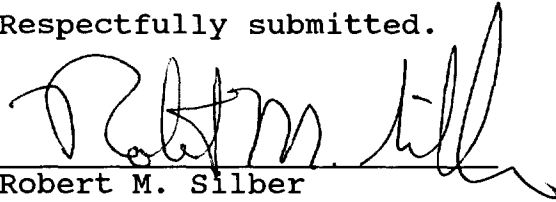
**If the Commission Establishes "Must Carry" Rules Pertaining to Cable Systems' Tear Down and Reconstruction of VBI Information, The Rules Should State that Line 21 Closed Captions Must be Reconstructed to Their Original Form.**

8. Several comments addressed the issue of the extent to which a cable system must reconstruct VBI information that had been torn down. NCI does not object to the tearing down of line 21 closed captions provided that these captions are reconstructed, in their entirety and without alteration, for display through line 21 decoder circuitry that meets FCC requirements contained in 47 CFR Section 15.119 et seq. If the FCC decides to develop rules that address the tear down and reconstruction of VBI signals, these rules should include a requirement that the cable system reconstruct line 21 captions to the form in which they appeared with the broadcasters' primary video and accompanying audio, so that cable subscribers who use decoders that meet FCC requirements will receive the same full captioning service as over-the-air viewers.

### **Conclusion**

9. The Commission's adoption of NCI's suggestions for adopting rules will ensure that clear Congressional determination regarding line 21 closed caption transmission carriage is carried out for the benefit of deaf and hard of hearing people.

Respectfully submitted.

A handwritten signature in black ink, appearing to read "Robert M. Silber", is written over a horizontal line.

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